

1 HONORABLE JAMES L. ROBART  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

10 MICROSOFT CORPORATION,

11 Plaintiff,

12 v.

13 MOTOROLA, INC., et al.,

14 Defendants.

16 MOTOROLA MOBILITY, INC., et al.,

17 Plaintiffs,

18 v.

19 MICROSOFT CORPORATION,

20 Defendant.

No. C10-1823-JLR

**REDACTED**

JOINT NOTICE OF RULING IN  
RELATED CASE AND MOTION TO  
SUPPLEMENT THE RECORD ON  
SUMMARY JUDGMENT

Noted For: May 4, 2012

21 Microsoft Corporation (“Microsoft”) and Motorola, Inc. (nka Motorola Solutions, Inc.),  
22 Motorola Mobility, Inc., and General Instrument Corporation (collectively “Motorola”) hereby  
23 provide notice of rulings in two related disputes between certain of the parties. Specifically,  
24 attached hereto as Exhibit 1 is a copy of the Initial Determination issued by Administrative  
25 Law Judge David P. Shaw on April 23, 2012 (the “Initial Determination”) in *In the Matter of*

JOINT NOTICE OF RULING  
IN RELATED CASE AND MOTION TO  
SUPPLEMENT THE RECORD - 1

LAW OFFICES  
DANIELSON HARRIGAN LEYH & TOLLEFSON LLP  
999 THIRD AVENUE, SUITE 4400  
SEATTLE, WASHINGTON 98104  
TEL. (206) 623-1700 FAX, (206) 623-8717

*Certain Gaming and Entertainment Consoles, Related Software, and Components Thereof,*  
ITC Investigation No. 337-TA-752 (the “ITC Action”).<sup>1</sup>

In the ITC Action, Motorola Mobility, Inc. and General Instrument Corp. asserted that Microsoft's Xbox 360 game console and certain accessories infringe five of its patents (US 6,069,896; US 7,162,094; US 6,980,596; US 5,357,571; and US 5,319,712). On that basis, Motorola has sought an exclusion order barring import of such products into the United States.

Four of the patents at issue in the ITC Action are also the subject of Microsoft’s affirmative claims in this action.<sup>2</sup> Those four patents are asserted by Motorola to be essential to implementation of either the ITU’s H.264 video compression standard (US 7,162,094 and US 6,980,596) or the IEEE’s 802.11 wireless communication standard (US 5,357,571 and US 5,319,712). The Parties believe the Initial Determination is relevant to the issues currently before the Court on summary judgment due to ALJ Shaw’s analysis relating to overlapping standard-essential patents and Microsoft’s RAND-related equitable defenses.

Microsoft believes that the most relevant passages from the Initial Determination can be found in the ALJ's analysis on pages 300-303.

Motorola believes that the most relevant passages can be found in the ALJ's conclusions of law on pages 330-31.

Attached hereto as Exhibit 2 is a copy of the May 2, 2012 decision in *General Instrument Corp. v. Microsoft Deutschland GmbH*, Case No. 2 O 240/11, which was pending in Mannheim, Germany. This proceeding involved the assertion of two German patents assigned to General Instrument Corp. that were listed in Motorola's offer to Microsoft. The

<sup>1</sup> The Initial Determination is being filed under seal, pursuant to the Parties' Stipulated Motion to File ITC Initial Determination Under Seal.

<sup>2</sup> The fifth patent (US 6,069,896) is also the subject of Microsoft's claims in this action, but was asserted against non-essential functionality in the ITC Action

1 German court's decision can be made public at the parties' discretion and is in the process of  
2 being translated by both Motorola and Microsoft.

3 The portion of the German court's opinion that may have relevance to the proceedings  
4 in this Court can be found at pages 36-49 of Exhibit 2, as translated in Exhibit 3 (Motorola's  
5 preliminary translation of pages 36-49) and Exhibit 4 (Microsoft's preliminary translation of  
6 the opinion<sup>3</sup>). The parties will file certified copies of their translations of the entire opinion as  
7 soon as those translations are complete.

8 Accordingly, the parties jointly move to supplement the record on their pending  
9 motions for summary judgment (Docket Nos. #141, #228 and #237), scheduled for hearing on  
10 May 7, 2012.

11 DATED this 4<sup>th</sup> day of May, 2012.

12 DANIELSON HARRIGAN LEYH &  
13 TOLLEFSON LLP

14 By s/ Arthur W. Harrigan, Jr.  
15 Arthur W. Harrigan, Jr., WSBA #1751  
Christopher Wion, WSBA #33207  
Shane P. Cramer, WSBA #35099

16 By s/ T. Andrew Culbert  
17 T. Andrew Culbert, WSBA #35925  
David E. Killough, WSBA #21119  
18 MICROSOFT CORPORATION  
1 Microsoft Way  
19 Redmond, WA 98052  
Phone: 425-882-8080  
20 Fax: 425-869-1327

SUMMIT LAW GROUP PLLC

By s/ Ralph Palumbo  
Ralph Palumbo, WSBA #4751  
Philip S. McCune, WSBA #21081  
Lynn M. Engel, WSBA #21934  
[ralphp@summitlaw.com](mailto:ralphp@summitlaw.com)  
[philm@summitlaw.com](mailto:philm@summitlaw.com)  
[lynne@summitlaw.com](mailto:lynne@summitlaw.com)

By s/ K. McNeill Taylor, Jr.  
K. McNeill Taylor, Jr.  
Motorola Mobility Inc.  
MD-W4-150  
600 North U.S. Highway 45  
Libertyville, IL 60048-1286  
Phone: 858-404-3580  
Fax: 847-523-0727

23 <sup>3</sup> Exhibit 4 is a translation of the May 2, 2012 opinion issued by the German court in *General Instrument Corp. v.*  
24 *Microsoft Corp. and Microsoft Ireland Operations Limited*, Case No. 2 O 387/11, which has been consolidated  
25 with Case No. 2 O 240/11. The substance of the two German orders is materially the same with respect to any  
issues potentially relevant to this matter. The passage at pages 36-49 of Exhibit 2 corresponds to pages 20-33 of  
Exhibit 4.

John W. McBride, *(pro hac vice)*  
David T. Pritikin, *(pro hac vice)*  
Richard A. Cederoth, *(pro hac vice)*  
Douglas I. Lewis, *(pro hac vice)*  
SIDLEY AUSTIN LLP  
One South Dearborn  
Chicago, IL 60603  
Phone: 312-853-7000  
Fax: 312-853-7036

Brian R. Nester, (*pro hac vice*)  
SIDLEY AUSTIN LLP  
1501 K Street NW  
Washington, DC 20005  
Telephone: 202-736-8000  
Fax: 202-736-8711

## **Counsel for Microsoft Corp.**

Steven Pepe (*pro hac vice*)  
Jesse J. Jenner (*pro hac vice*)  
Ropes & Gray LLP  
1211 Avenue of the Americas  
New York, NY 10036-8704  
(212) 596-9046  
[steven.pepe@ropesgray.com](mailto:steven.pepe@ropesgray.com)  
[jesse.jenner@ropesgray.com](mailto:jesse.jenner@ropesgray.com)

Norman H. Beamer (*pro hac vice*)  
Ropes & Gray LLP  
1900 University Avenue, 6<sup>th</sup> Floor  
East Palo Alto, CA 94303-2284  
(650) 617-4030  
*norman.beamer@ropesgray.com*

Paul M. Schoenhard (*pro hac vice*)  
Ropes & Gray LLP  
One Metro Center  
700 12<sup>th</sup> Street NW, Suite 900  
Washington, DC 20005-3948  
(202) 508-4693  
*Paul.schoenhard.ropesgray.com*

**Counsel for Motorola Solutions, Inc.,  
Motorola Mobility, Inc., and General  
Instrument, Corp.**

**EXHIBIT 1**  
**FILED**  
**UNDER SEAL**